

APPEAL NO. 022595
FILED NOVEMBER 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 21, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable low back injury on _____, and that he therefore does not have disability. The claimant appealed, asserting that the hearing officer was biased and that her decision is against the great weight of the credible evidence. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

We first address the claimant's assertion that the hearing officer was biased against him. We have carefully reviewed the entire record in this matter and find absolutely no evidence to indicate that the hearing officer was biased, or that she acted improperly in any way. As we find no merit in this assertion, we will not discuss it further.

On appeal, the claimant essentially challenges the way in which the hearing officer gave weight to the evidence before her. The claimant had the burden to prove that he sustained a compensable injury and that it resulted in disability. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's injury and disability determinations are supported by sufficient evidence and that they are not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Susan M. Kelley
Appeals Judge

CONCUR:

Veronica Lopez
Appeals Judge

Michael B. McShane
Appeals Judge
Manager/Judge